



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P O Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,200	06/26/2001	Eugene S. Smotkin	491712000100	9382
25225	7590	08/09/2010		EXAMINER
MORRISON & FOERSTER LLP 12531 HIGH BLUFF DRIVE SUITE 100 SAN DIEGO, CA 92130-2040			ART UNIT	PAPER NUMBER

DATE MAILED: 08/09/2010

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09891200	6/26/2001	SMOTKIN, EUGENE S.	491712000100

EXAMINER

Raymond Alejandro

ART UNIT	PAPER
----------	-------

1795 20100730

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The reply filed on 07/29/10 is not fully responsive to the office action dated 07/19/10 because of the following omission(s) or matter(s):

- a) the numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be PRESERVED throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not). Notice that as per applicant's appeal brief dated 07/11/07 and applicant's amendment dated 11/03/06 claims 1-8 had been previously cancelled.
- b) notice also that applicant's reply does not indicate whether claims 75-76, 80-81, 84-85 and 89-90 have been cancelled. It does not show a status identifier for those claims. The same goes for claims 77-79, 82, 86-88 and 91.
- c) incorporation of subject matter of reversed claims 82 and 91 (as currently drafted in claims 4 and 8 of applicant's reply dated 07/29/10) does not seem to adequately reflect the specifics of the subject matter recited in affirmed claims 75 and 84, and reversed claims 82 and 91. For instance, it is apparent from reviewing claims 82 and 91 that applicant is entitled to claim only the limitation "wherein the area-specific resistance for protons at at least one temperature between 220 °C and 550 °C is about 0.150 Ωcm²". Accordingly, the present claims should be amended to specifically recite that that area-specific resistance is "about 0.150 Ωcm²" (which is the subject matter recited in reversed claims 82 and 91) because "the range of 0.01-100 Ωcm²" in claim 4 and "in the range shown for Nafion 117" in claim 8 correspond to subject matter recited in affirmed claims 75 and 84. In other words, applicant must incorporate the specific ASR value recited in reversed claims 82 and 91 (i.e. "about 0.150 Ωcm²") and remove subject matter related to ASR values (or magnitudes or ranges) which are NOT consistent with the subject matter recited in reversed claims 82 and 91. Note that "the broad range ASR (area-specific resistance)" recited in independent claims 75 and 84 correspond to subject matter in which its rejection was affirmed by BPAI.

Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS within which to supply the omission or correction in order to avoid abandonment. Note that a first communication concerning this matter was mailed out on 07/19/10.

/Raymond Alejandro/
Primary Examiner, Art Unit 1795